

City of Mississauga

Corporate Report



12.11.

Date: June 23, 2020

To: Mayor and Members of Council

From: Geoff Wright, P.Eng, MBA, Commissioner of
Transportation and Works

Originator's files:

Meeting date:
July 8, 2020

Subject

Road Occupancy Permit By-law

Recommendation

1. That a new road occupancy permit by-law be enacted to regulate construction works in the road rights-of-way within the City of Mississauga.
2. That the Road Occupancy, Lot Grading and Municipal Protection Services Deposits By-law 251-2012, as amended, be repealed.
3. That the Banners Policy 06-02-06 be amended to include the deposit requirements for installation of banners within the road rights-of-way from the Road Occupancy, Lot Grading and Municipal Protection Services Deposits By-law 251-2012, as amended.
4. That a by-law be enacted to amend Schedule "B-1" of the 2020 User Fees and Charges By-law 156-2019 to provide the Commissioner of Transportation and Works the authority to waive Road Occupancy Permit fees for internal City of Mississauga departments.
5. That a by-law be enacted to amend section 9 of By-law 0025-2015 (to appoint City Employees and Municipal Law Enforcement Officers for the purposes of enforcing Municipal By-laws) to identify the persons who are employed by the City's Transportation and Works Department for the purposes of enforcing the new road occupancy permit by-law as outlined in Recommendations #1.

Report Highlights

- The existing Road Occupancy, Lot Grading and Municipal Services Protection Deposit By-Law 251-2012, as amended, will be repealed in order to create two stand-alone by-laws including a new road occupancy permit by-law and a new lot grading and municipal service protection by-law.

- Staff from Transportation and Works (Works Operations and Maintenance) and Legal Services have developed a new road occupancy permit by-law to regulate construction works in the road rights-of-way within City of Mississauga through a system of permits. The new road occupancy permit by-law will clearly define permit requirements, ensure protection of City infrastructure and provide City staff with the tools to administer and enforce the by-law.
- Staff from Transportation and Works (Infrastructure Planning and Engineering Services) and Legal Services have developed a new lot grading and municipal service protection by-law. The new lot grading and municipal service protection by-law reinstates the relevant provisions of the repealed by-law in a manner that more clearly defines existing City requirements related to lot grading and municipal service protection, including the tools provided to staff to administer and enforce the by-law. The new by-law related to lot grading and municipal services protection deposits is included in a separate report from the Commissioner of Transportation and Works, dated June 23, 2020 entitled “Review of the Merits of a Grading and Drainage By-Law for the City of Mississauga”.
- Amendments to the existing 2020 User Fees and Charges By-law 156-2019, Appointment By-law 0025-2015 and Banners Policy 06-02-06 are required to facilitate the introduction of the new road occupancy permit by-law.

Background

The Road Occupancy, Lot Grading and Municipal Services Protection Deposit By-Law 251-12, as amended, was enacted in 2012 (the “current By-law”). The current By-law provides the City with the authority to regulate construction in the road rights-of-way, as well as the alteration of lot grading, through a system of permits and security deposits.

The current By-law has been amended several times over the years since it was first adopted; however, it does not adequately address City needs for regulation of construction work within the road rights-of-way. As a result, the current By-law required a comprehensive update, with the initial focus of the review on Road Occupancy Permits. City staff conducted best practice research of other municipalities, as well as performed a gap analysis of the current By-law from a permitting perspective. The findings of staff’s review of the current By-law include the following:

- Wording does not capture the type of works that the City permits.
- It lacks the wording required to address compliance and enforcement.
- Multiple amendments have made the current By-law cumbersome to navigate.
- There is a lack of guidance for users, including City staff and Road Occupancy Permit applicants, on the permitting process and associated requirements.

As part of staff's preliminary review, it was determined that the regulation of construction in the road rights-of-way through permits needs to be separated from the current By-law and a new stand-alone by-law for road occupancy permits needs to be created.

Comments

New Road Occupancy Permit By-law

Staff from Transportation and Works (Works Operations and Maintenance) and Legal Services have developed a new road occupancy permit by-law (the "new ROP by-law") for the purpose of regulating construction works within the road rights-of-way through a system of permits. The new ROP by-law addresses:

- Types of construction works that are to be regulated through permits including but not limited to:
 - Temporary occupation of any portion of a road for the placing of any construction machinery, vehicles, storage containers, waste bins, materials, or mobile cranes.
 - Works resulting in geometric design changes to City road infrastructure.
 - Engineering investigations that result in exploratory excavations including the installation and use of boreholes and monitoring wells in the road.
 - Installation, removal and maintenance of utility infrastructure in the road.
- Requirements when applying for a permit.
- Ensuring any works in the road rights-of-way meet City requirements.
- Authorization to enforce the new ROP by-law to ensure compliance, including the authority to suspend a permit, revoke a permit, issue an order or lay a charge.
- Requirements in relation to ROP security deposits, as set out in Schedule "A" of the new ROP by-law.

In addition, the new ROP by-law addresses the City of Mississauga Public Utility Coordinating Committee (PUCC). PUCC members are comprised of utility providers that supply energy services, water, sanitary, telecommunications services or gas services in the City. The City established PUCC for the purposes of maintaining common standards of practice for the installation and repair of infrastructure within the City road rights-of way. The new ROP by-law outlines PUCC membership requirements to ensure members are responsible and accountable for their installed infrastructure in the road rights-of-way. In addition, it ensures PUCC members participate in a multi-party installation and/or coordinate work, when feasible, to minimize the impacts of construction.

Highlights of the new ROP by-law were presented to the PUCC members on September 25, 2019 and no objections were raised at that time.

Repeal of the Road Occupancy, Lot Grading and Municipal Services Protection Deposit By-Law 251-12, as amended

As a result of the separation and introduction of the new ROP by-law, and in consultation with staff from Transportation and Works (Infrastructure Planning and Engineering Services) and Legal Services, it was determined that repeal of the current By-law is required in order to create two stand-alone by-laws. As a result, the relevant provisions of the current By-Law will be included in a new by-law named Lot Grading and Municipal Services Protection By-Law, and is included in a separate report from the Commissioner of Transportation and Works, dated June 23, 2020 entitled "Review of the Merits of a Grading and Drainage By-Law for the City of Mississauga".

Banners Policy 06-02-06 Amendment

As a result of repealing the current By-law, the deposit requirement for installation of banners within road rights-of-way needed to be addressed. Therefore, the Banners Policy 06-02-06 will be amended to include these deposit requirements.

2020 User Fees and Charges By-law Amendment

The 2020 User Fees and Charges By-law will be amended by inserting delegated authority to the Commissioner of Transportation and Works to waive, reduce or otherwise vary fees for Road Occupancy Permits for internal City departments. This authority was included in the 2019 Transportation and Works Fees and Charges By-law (226-18) and was unintentionally excluded when the Transportation and Works fees were included in the User Fees and Charges By-law.

Appointment By-law Amendment (0025-2015)

In order for City staff to enforce the new ROP by-law, a number of staff members require appointment as Municipal Law Enforcement Officers. The following positions will be appointed as Municipal Law Enforcement Officers:

- Commissioner, Transportation and Works
- Director, Works Operations and Maintenance
- Director, Infrastructure Planning & Engineering Services
- Manager, Technical Services
- Manager, Development Engineering and Construction
- Supervisor, Maintenance Standards and Permits
- Supervisor, Surveys and Inspections
- Supervisor, Development Construction

- Assistant Supervisor, Surveys and Inspections
- PUCC/Permit Technologist
- Utility Cut Technician
- Permit Technical Coordinator
- Development Construction Technologist
- Senior Inspector
- Inspector

Enforcement Action Plan

Transportation and Works staff notes that the new ROP by-law will be investigated and enforced as described below:

- Staff will investigate the complaint by conducting an inspection of the site and advising of the requirements under the ROP by-law.
- If a contravention is observed, staff will first seek compliance with the ROP by-law by notifying the offending party in writing of the contravention and applicable provisions of the ROP By-law. Notification will include specified timelines by which to resolve the contravention.
- Staff will then re-inspect to determine compliance with the ROP by-law. If the ROP by-law is being complied with, the matter will be documented as resolved. If determined that the ROP by-law is not being complied with, staff will attempt to gather sufficient evidence to issue a notice of contravention. The notice will include specified timelines by which to resolve the contravention.
- If there is continued non-compliance, staff will attempt to gather sufficient evidence to issue a charge for contravening the ROP by-law and/or not issue any additional permits to the Permit Holder until such time that the contravener is in compliance with the by-law.

The new ROP by-law provides staff with the mechanism to enforce the Action Plan described above to ensure compliance by Permit Holders, which is not clearly defined in the current By-law. With the new ROP by-law, staff will be better equipped to address non-compliance issues such as not adhering to proper traffic set-up to ensure safe passage of vehicles, cyclists and pedestrians, poor sod restoration, not properly protecting around an excavation (i.e. fencing around an open pit), or workers not wearing proper personal protective equipment (e.g. reflective vest, hard hat, etc.).

Financial Impact

There will be no financial impact to the City.

Conclusion

Staff from Transportation and Works (Works Operations and Maintenance) and Legal Services have developed a new ROP by-law to regulate construction works in the road rights-of-way within City of Mississauga through a system of permits. The new ROP by-law will clearly define permit requirements, ensure protection of City infrastructure and provide City staff with the tools to administer the By-law.

As part of introduction of the new ROP by-law, the existing Road Occupancy, Lot Grading and Municipal Services Protection Deposit By-Law 251-2012, as amended, will be repealed and a separate, but concurrent report to Council will deal with the standalone Lot Grading and Municipal Services Protection By-Law.

In addition, amendments to the 2020 User Fees and Charges By-law, Appointment By-law and Banners Policy are also required to facilitate the introduction of the new ROP by-law.



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